

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

---

Joseph Anderson,

Plaintiff,

v.

Gila, LLC,

Defendant.

---

:  
: Civil Action No.: 1:14-cv-288  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

**COMPLAINT**

For this Complaint, the Plaintiff, Joseph Anderson, by undersigned counsel, states as follows:

**JURISDICTION**

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business here, Plaintiff resides in this judicial district, and a substantial portion of the acts giving rise to this action occurred here.

**PARTIES**

3. The Plaintiff, Joseph Anderson ("Plaintiff"), is an adult individual residing in Lawrence, Kansas, and is a "person" as the term is defined by 47 U.S.C.A. § 153(39).
4. The Defendant, Gila, LLC ("Gila"), is a Texas business entity with an address of 8325 Tuscany Way, Building 4, Austin, Texas 78752-3630, "person" as the term is defined by 47 U.S.C.A. § 153(39).

**FACTS**

5. Beginning in or around February 2014, Gila started calling Plaintiff's cellular telephone.

6. At all times mentioned herein, Gila contacted Plaintiff using an automated telephone dialer system ("ATDS" or "predictive dialer") and/or by using an artificial or prerecorded voice.

7. Plaintiff has no prior relationship with Gila and never provided his consent to be contacted by means of an automated system on his cell phone.

8. When he answered the ATDS calls, Plaintiff heard a pre-recorded message that stated, "This is not a telemarketing call...this is an attempt to collect debt...this is the Municipal Service Bureau...please enter your account number..."

9. On at least one occasion, Plaintiff called Gila to speak with a live representative.

10. During this conversation, Plaintiff informed Gila's representatives that he did not have any relationship with the company and requested Gila cease all calls to his cell phone.

11. Nonetheless, Gila proceeded to place at least four (4) additional calls to Plaintiff.

**COUNT I**

**VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –  
47 U.S.C. § 227, et seq.**

12. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

13. Defendant contacted Plaintiff using an automatic telephone dialing system and/or by using a prerecorded or artificial message on a cellular telephone of 47 U.S.C. § 227(b)(1)(A)(iii).

14. Plaintiff either never provided express consent to Defendant to call his cellular telephone number, and/or Plaintiff revoked his consent to be contacted by Defendant on his cellular telephone by his repeated demands to cease calling his cellular telephone.

15. The calls from Defendant to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

16. Each of the aforementioned calls made by Defendant constitutes a negligent or intentional violation of the TCPA, including each of the aforementioned provisions of 47 U.S.C. § 227, *et. seq.*

17. As a result of each of Defendant’s negligent violations of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

18. As a result of each of Defendant’s knowing and/or willful violations of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 for each and every violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

### **PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff prays that judgment be entered against the Defendant:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(1)(A);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
3. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: April 3, 2014

Respectfully submitted,

By: /s/ Sergei Lemberg

Sergei Lemberg, *Attorney-in-Charge*  
Connecticut Bar No. 425027  
LEMBERG LAW LLC  
1100 Summer Street, 3<sup>rd</sup> Floor  
Stamford, CT 06905  
Telephone: (203) 653-2250  
Facsimile: (203) 653-3424  
E-mail: [slemberg@lemborglaw.com](mailto:slemberg@lemborglaw.com)  
Attorneys for Plaintiff